IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 5500 of 1996

Between:

1 The Divisional Forest Officer, Forest Department
Nalgonda.
2 The Conservator of Forests Nalgonda Zone, Hyderabad
Forest Department Saifabad, Hyderabad

....PETITIONERS

AND

1 Sri Vartia Geria C/o. Sri Mohd. Lateefuddin
rep.by Labour Law Consultants, House of Labour
King Kothi Road Hyderabad
2 The Presiding Officer, Labour Court III
Nampally, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of the writ of certiorari calling for the records of the 2nd respondent herein in ID.No.543/93 Dt.7/4/95 and quash the same as arbitrary illegal and without jurisdiction.

Counsel for the Petitioners: GP FOR FORESTS

Counsel for the Respondents: GP FOR LABOUR

The Court made the following :

ORDER:

Heard.

The petitioners filed this writ petition *inter alia* seeking writ of mandamus challenging the award in I.D.No.543 of 1993, dated 07.04.1995 on the file of the 2nd respondent herein allowing the claim made by the 1st respondent herein in terms of a dispute referred under Section 2A(2) of the Industrial Disputes Act 1947.

In the application, the 1st respondent herein sought for reinstatement on the ground that his termination from service was bad and illegal. Accepting the version of the 1st respondent herein, the 2nd respondent passed an award directing his reinstatement with continuity of service and other attendant benefits as per rules.

Learned Counsel appearing on behalf of the petitioner, placing reliance on the decision of the Supreme Court in the **State of Gujarat Vs. Pratamsingh Narsinh Parmar,** submits that no such reference could have been permissible, more so when the petitioner or any wing of the Government cannot be called as Industry, so as to attract the provisions of Industrial Disputes Act. In the aforesaid judgment, the apex Court held as follows:

> Ordinarily a government department cannot be regarded as an industry. In absence of any assertion that Forest Department of a State was an industry, merely on the basis of submission on behalf of respondent (who was an industry, merely on the basis of submission on behalf of respondent (who was appointed as a Clerk in Forest Department on purely temporary basis) that termination of service of the respondent was vitiated for non-compliance with Sec.25-F, held, High Court erred in allowing the writ petition filed by respondent by taking the view that Forest Department was an industry and as such termination of service without complying with Sec.25-F

cannot be sustained.

Therefore, it was held that the provisions of the Industrial Disputes Act cannot be applicable. Following the same, it has to be held that the 1st respondent could have invoked any of the provisions of the said Act and the entire award proceedings are totally vitiated.

The writ petition is accordingly allowed.

24.11.2004.

MRKR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Wednesday, the Twenty Fourth Day of November Two Thousand and Four.

To

1..The Presiding Officer, Labour Court III, Nampally, Hyderabad.

2.Two C.Cs to the Government Pleader for Labour, High Court Buildings, Hyderabad.(OUT)

3.Two C.D copies.